

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA RECEIVED
NORTHERN DIVISION

2007 Aug 16 A 10:54

JOHNNY W. SASSER,)
)
PLAINTIFF,)
)
vs.) CASE NO.: 2:06cv593-CSC
)
RYDER TRUCK RENTAL, et al.,)
)
DEFENDANTS.)

PLAINTIFF'S RESPONSE TO COURT'S ORDER OF AUGUST 1, 2007

COMES NOW, the Plaintiff, by and through his undersigned attorney and in accordance with the above referenced Order states as follows:

1. The Plaintiff completely agrees with the Court that this case is a workers' compensation case that is totally governed by state law. This case arose as a contempt of the Plaintiff's filing a Motion for Contempt against the Defendant for failure to pay medical bills in accordance with a previous state court workers' compensation judgment. The Plaintiff also added a tort claim for outrage.
2. The Defendant's only defense to the tort of outrage claim is that they were allowed under Alabama workers' compensation laws to rely on peer reviews by physicians that they hired to review the Plaintiff's medical bills.
3. In its own summary judgment motion, the Defendant cites Alabama statutory law and case law giving the Defendant the right to use peer reviews. Those laws regarding utilization reviews as set forth in Section 25-5-290 et seq. *Code of Alabama* are clearly under the workers' compensation statutes and are intended as

procedures for handling workers' compensation cases.

4. The Defendant has invoked that defense to the tort of outrage and that defense is governed only by statutes and cases interpreting the workers' compensation statutes in Alabama.
5. There is no way for the tort of outrage claim to be adjudicated without the Court ruling on and interpreting state workers' compensation laws. As such the case should be adjudicated in state court.

WHEREFORE THE PREMISES considered, the Plaintiff concurs with the Court's assessment that this case should be remanded to the state court for a determination of this case under Alabama workers' compensation laws.

Respectfully submitted,



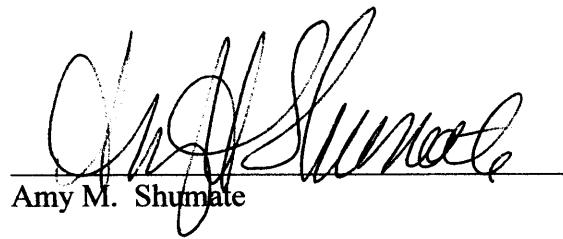
Amy M. Shumate (SHU015)
Attorney for the Plaintiff
519 South Oates Street
Dothan, Alabama 36301
(334) 673-0729

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished by U.S. Mail, postage prepaid and properly addressed, on this 15th day of August, 2007 to:

Conley W. Knott
Austill, Lewis & Simms, P.C.
P.O. Box 11927
Birmingham, Alabama 35202-1927
Attorney For: Ryder Truck Rental, Inc.

William A. Austill
Austill, Lewis & Simms, P.C.
P.O. Box 11927
Birmingham, Alabama 35202-1927
Attorney For: Ryder Truck Rental, Inc



Amy M. Shumate